GOVERNMENT OF INDIA
URBAN DEVELOPMENT
LOK SABHA

UNSTARRED QUESTION NO:1250
ANSWERED ON:29.11.2011
TRANSFER OF IMMOVABLE PROPERTY
Kodikunnil Shri Suresh

Will the Minister of URBAN DEVELOPMENT be pleased to state:

(a) whether the Supreme Court has ruled that no immovable property can be legally transferred or conveyed through a general power of attorney, sale agreement or will;

(b) if so, the details thereof;

(c) whether the Union Government has asked the State Governments to immediately take necessary steps and implement the Supreme Court judgement;

(d) if so, the details thereof; and

(e) if not, the reasons therefor?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF URBAN DEVELOPMENT (SHRI SAUGATA ROY)

(a)&(b): Yes, Madam. The Ministry of Law and Justice has informed that the Hon'ble Supreme Court of India vide its judgement dated 11th October, 2011, in the case of Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana & Anr. reported in SLP(Civil) No. 13917 of 2009 held that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of 'GPA Sales or Sale Agreement (SA)/ General Power of Attorney (GPA)/WILL transfers' do not convey title and do not amount to transfer, nor can they be recognized or valid mode of transfer of immovable property and that they are drawing attention to well-settled legal position that SA/GPA/WILL transactions are not 'transfers' or 'sales' and that such transactions cannot be treated as completed transfers or conveyances. However, they have made it clear that their observations regarding SA/GPA/WILL transactions are intended to apply to bona fide/genuine transactions.

(c): No, Madam.

(d): Does not arise.

(e): The Ministry of Law and Justice has further informed that the Supreme Court of India in its judgement has reiterated the well-settled legal position that SA/GPA/Will transactions are not 'transfers' or 'sales' and such transactions cannot be treated as completed transfers or conveyances. The judgement of the apex court is the reiteration of the legal position and therefore, there does not appear any necessity to ask the State Governments to implement the Supreme Court judgement.